

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 439

(Senators Prezioso, Carmichael,
Gaunch, D. Hall, Kessler, Leonhardt,
Walters, Williams, and Plymale, *original sponsors*)

[Passed March 14, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §18B-4-2a of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-7-1, §18B-7-2, §18B-7-8, §18B-7-9, §18B-7-11 and §18B-7-16 of said code; to amend and reenact §18B-9-1 and §18B-9-2 of said code; to amend and reenact §18B-9A-1, §18B-9A-2, §18B-9A-3, §18B-9A-4, §18B-9A-5, §18B-9A-6 and §18B-9A-7 of said code; and to amend said code by adding thereto a new section, designated §18B-9A-5a, all relating to public higher education personnel generally; clarifying roles and certain responsibilities of Higher Education Policy Commission, Council for Community and Technical College Education and state organizations of higher education; modifying legislative purposes and intent for higher education personnel, classification and compensation system, and classified employee salary schedule; defining terms and modifying defined terms; modifying and clarifying duties of Vice Chancellor for Human Resources of the Higher Education Policy Commission; eliminating outdated and redundant reporting, rule

and review requirements; requiring certain personnel provisions be created and specifying responsibilities; modifying certain reporting requirements; providing for evaluation and reviews of organizations for certain human resource deficiencies, best practices and compliance with state higher education personnel laws; modifying percentages and criteria of percentages of employees designated as “nonclassified”; modifying requirements for study of employment practices; expanding applicability of certain salary schedule provisions and flexibilities; clarifying that certain provisions are only applicable to classified employees; modifying and clarifying powers and duties of the Job Classification Committee and Compensation Planning and Review Committee; eliminating certain approval of members of Job Classification Committee and Compensation Planning and Review Committee; eliminating requirement that salary schedules fall within relative market equity; clarifying role and considerations of the Higher Education Policy Commission and Community and Technical College Council in developing salary schedules for classified employees; requiring classification and compensation rules; deleting obsolete provisions; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

That §18B-4-2a of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §18B-7-1, §18B-7-2, §18B-7-8, §18B-7-9, §18B-7-11 and §18B-7-16 of said code be amended and reenacted; that §18B-9-1 and §18B-9-2 of said code be amended and reenacted; that §18B-9A-1, §18B-9A-2, §18B-9A-3, §18B-9A-4, §18B-9A-5, §18B-9A-6 and §18B-9A-7 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18B-9A-5a, all to read as follows:

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-2a. Employment of Vice Chancellor for Human Resources; powers and duties generally; staff; office.

1 (a) By and with the advice and consent of the Council for Community and Technical College
2 Education, the commission shall employ a Vice Chancellor for Human Resources who may not be
3 dismissed without the consent of the council. Any vacancy occurring in this position shall be filled
4 in accordance with this section.

5 (b) The successful candidate for the position of vice chancellor provides vision, leadership
6 and direction to ensure the human resources system for employees of the commission, council and
7 governing boards is effective, efficient and aligned with industry best practices. The successful
8 candidate possesses the following minimum qualifications:

9 (1) A master's degree in human resources or a related field; and

10 (2) Thorough knowledge of and experience administering employment laws and regulations,
11 recruiting and selection techniques, employee relations techniques and methodologies, legal
12 reporting and compliance requirements.

13 (c) The vice chancellor, in consultation with the chancellors, performs functions, tasks and
14 responsibilities necessary to carry out the policy directives of the council and commission and any
15 other duties prescribed by law. The vice chancellor oversees and monitors all issues related to the
16 personnel system for higher education employees and provides advice and technical support to
17 organizations as directed or requested on all issues related to the design, development,
18 implementation and administration of the personnel system established by this chapter and by duly
19 promulgated rules.

1 (d) The vice chancellor supervises employees at the commission offices involved in human
2 resources functions, including the professional, administrative, clerical and other employees
3 necessary to carry out assigned powers and duties. In consultation with the Vice Chancellor for
4 Administration and the chancellors, the vice chancellor shall delineate staff responsibilities as
5 considered desirable and appropriate.

6 (e) The vice chancellor provides support to the chancellors and organizations on a highly
7 diverse range of issues, including assisting them to develop a culture of constant improvement in a
8 rapidly changing, complex market. Duties of the position include, but are not limited to, the
9 following:

10 (1) Developing and implementing business-related initiatives involving organizational
11 design, labor cost management, executive recruitment and compensation, leadership and
12 management development, human resources data and technology, and compensation and benefits
13 programs;

14 (2) Chairing, or designating a qualified designee to chair the Job Classification Committee
15 and the Compensation Planning and Review Committee established by sections four and five, article
16 nine-a of this chapter.

17 (3) Assuming responsibility for coordinating benefits programs for all employees, including
18 designing these programs, and for supporting each higher education organization in implementing
19 the programs;

20 (4) Assuming responsibility for coordinating classification and compensation programs for
21 classified employees, including designing these programs, and for supporting each higher education
22 organization in implementing the programs;

1 (5) Assisting, as directed or requested, organizations with classification and/or compensation
2 programs for faculty and/or nonclassified employees, including, as appropriate, design and
3 implementation of the programs;

4 (6) Maintaining consistent human resources information systems and selecting and
5 supervising benefits consultants, brokers, trustees and necessary legal assistants;

6 (7) Maintaining the classified employee classification system by providing for regular review
7 of jobs to determine whether the current job description accurately reflects the duties and
8 responsibilities and whether the job is properly classified or needs to be modified or deleted. Every
9 job shall be reviewed at least once within each five-year period;

10 (8) Ensuring that market comparison studies are conducted for classified employees and
11 providing a report annually from data collected from each organization on the status of compensation
12 among the employee classifications.

13 (9) As requested by organizations, assist with carrying out the following duties related to
14 training and development:

15 (A) Analyzing and determining training needs of organization employees and formulating
16 and developing plans, procedures and programs to meet specific training needs and problems.

17 (B) Developing, constructing, maintaining and revising training manuals and training aids
18 or supervising development of these materials by outside suppliers;

19 (C) Planning, conducting and coordinating management inventories, appraisals, placement,
20 counseling and training;

21 (D) Coordinating participation by all employees in training programs developed internally
22 or provided by outside contractors; and

1 (E) Administering and analyzing annual training and development needs surveys. The survey
2 may coincide with the completion of the annual performance review process.

3 (10) As requested, assisting boards of governors and/or presidents in conducting performance
4 reviews of personnel who administer human resources functions at each organization in relation to
5 best practices pursuant to articles seven, eight, nine and nine-a of this chapter and rules of the
6 commission and council. Human resources personnel at each organization shall be evaluated at least
7 once within each three-year period. Copies of evaluations will be submitted to the Vice Chancellor
8 who shall analyze the results of these evaluations and target training and professional development
9 to identified areas of deficiency.

10 (f) To assist in performing the duties of vice chancellor, the commission, with the consent
11 of the council, shall create the following positions, and fill the positions beginning July 1, 2016, with
12 well qualified and appropriately credentialed individuals who will report to the Vice Chancellor for
13 Human Resources and work collaboratively with governing boards and their employees at all levels:

14 (1) A Generalist/Manager who is responsible for a wide range of human resources
15 management, the Human Resources Information System, reporting and program development
16 activities;

17 (2) A Director of Classification and Compensation who is responsible for maintaining job
18 classification systems, assisting organizations with classification and compensation matters,
19 coordinating compensation studies with the compensation planning and review committee and
20 external vendors, and conducting annual compensation program updates or market reviews;

21 (3) A Training and Development Specialist who is responsible for assessing training needs,
22 and for planning, designing, developing, implementing and/or coordinating delivery of training and

1 development programs and activities as required in subdivision (9), subsection (e) of this section and
2 section six, article seven of this chapter.

3 **ARTICLE 7. PERSONNEL GENERALLY.**

4 **§18B-7-1. Legislative intent and purpose.**

5 (a) The intent of the Legislature in enacting this article and articles eight, nine and nine-a of
6 this chapter is to establish a statewide, integrated higher education human resources system capable
7 of, but not limited to, meeting the following objectives:

8 (1) Providing benefits to the citizens of the State of West Virginia by supporting the public
9 policy agenda as articulated by state policymakers;

10 (2) Assuring fiscal responsibility by making the best use of scarce resources;

11 (3) Promoting fairness, accountability, credibility, and transparency in personnel
12 decisionmaking;

13 (4) Reducing or, wherever possible, eliminating arbitrary and capricious decisions affecting
14 employees of higher education organizations as defined in section two, article nine-a of this chapter;

15 (5) Creating a stable, self-regulating human resources system capable of evolving to meet
16 changing needs;

17 (6) Providing for institutional flexibility with meaningful accountability;

18 (7) Adhering to federal and state laws;

19 (8) Adhering to duly promulgated and adopted rules; and

20 (9) Implementing best practices throughout the state higher education system.

21 (10) Providing current, reliable data to governing boards, the commission, the council, the
22 Governor and the Legislature to inform the decision-making process of these policymakers.

1 (b) To accomplish these goals, the Legislature encourages organizations to pursue a human
2 resources strategy which provides monetary and nonmonetary returns to employees in exchange for
3 their time, talents and efforts to meet articulated goals, objectives and priorities of the state, the
4 commission and council, and the organization. The system should maximize the recruitment,
5 motivation and retention of highly qualified employees, ensure satisfaction and engagement of
6 employees with their jobs, ensure job performance and achieve desired results.

7 (c) It is the intent of the Legislature to establish a human resources strategy that is fair,
8 accountable, credible, transparent and systematic. In recognition of the importance of these qualities,
9 the human resources strategy outlined in this article, together with articles eight, nine and nine-a of
10 this chapter, is designated and may be cited as “FACTS for Higher Education”.

11 (d) It is the intent of the Legislature to require each higher education organization to achieve
12 full funding of the salary schedule established in section three, article nine of this chapter. A higher
13 education organization, as defined in section two, article nine-a of this chapter, is subject to the
14 provisions of article nine of this chapter until full funding is reached.

15 (e) It is further the intent of the Legislature to encourage strongly that each organization
16 dedicate a portion of future tuition increases to fund the classified salary schedule, and after full
17 funding of the salary schedule is achieved, to move toward meeting salary goals for faculty,
18 classified and nonclassified employees.

19 **§18B-7-2. Definitions.**

20 For the purposes of this article and articles eight, nine and nine-a of this chapter, the
21 following words have the meanings ascribed to them unless the context clearly indicates a different
22 meaning:

1 (1) "Benefits" means programs that an employer uses to supplement the cash compensation
2 of employees and includes health and welfare plans, retirement plans, pay for time not worked and
3 other employee perquisites.

4 (2) "Compensation" means cash provided by an employer to an employee for services
5 rendered.

6 (3) "Compensatory time" and "compensatory time off" mean hours during which the
7 employee is not working, which are not counted as hours worked during the applicable work week
8 or other work period for purposes of overtime compensation and for which the employee is
9 compensated at the employee's regular rate of pay.

10 (4) "Employee classification" or "employee class" means those employees designated as
11 classified employees; nonclassified employees, including presidents, chief executives and top level
12 administrators and faculty, as these terms are defined in this article and articles eight, nine and nine-a
13 of this chapter.

14 (5) "Full-time" means an employee whose employment, if continued, accumulates to a
15 minimum total of one thousand forty hours during a calendar year and extends over at least nine
16 months of a calendar year

17 (6) "Health and welfare benefit plan" means an arrangement which provides any of the
18 following: Medical, dental, visual, psychiatric or long-term health care, life insurance, accidental
19 death or dismemberment benefits, disability benefits or comparable benefits.

20 **§18B-7-8. Reporting.**

21 (a) *Annual personnel reports.* --

22 (1) No later than December 1, 2013, and annually thereafter, the commission and council

1 shall report to the Legislative Oversight Commission on Education Accountability addressing the
2 following issues:

3 (A) Progress made by organizations toward achieving full funding of the temporary classified
4 employees' salary schedule pursuant to section three, article nine of this chapter; and

5 (B) Detailed data disaggregated by organization and employee category or classification,
6 comparing funding for salaries of faculty, classified employees and nonclassified employees as a
7 percentage of the average funding for each of these classes or categories of employees among the
8 organization's state, region or national markets, as appropriate, and among similar organizations
9 within the state systems of public higher education.

10 (2) The commission and council shall prepare a human resources report card summarizing
11 the performance of organizations on key human resources measures established by the commission
12 and council. The report card shall be presented to the Legislative Oversight Commission on
13 Education Accountability annually and shall be made available to the general public. At a minimum,
14 the human resources report card shall contain the following data:

15 (A) Human resources department metrics by organization:

16 (i) Number of human resources staff;

17 (ii) Ratio of human resources staff to total number of full-time equivalent employees;

18 (iii) Percentage of human resources staff functioning in supervisory roles and percentage in
19 administrative roles;

20 (iv) Number of positions reporting to the head of human resources;

21 (v) Areas of human resources functions outsourced to external entities;

22 (vi) Total expenses per full-time equivalent employee; and

- 1 (vii) Tuition revenue per full-time equivalent employee.
- 2 (B) Human resources expense data:
- 3 (i) Ratio of human resources expenses to operating expenses;
- 4 (ii) Ratio of human resources expenses to number of full-time equivalent employees; and
- 5 (iii) Total human resources expense per organization employee.
- 6 (C) Compensation data:
- 7 (i) Average amount of annual salary increase per full-time equivalent organization employee;
- 8 (ii) Total amount of organization employee salaries as a percent of operating expenses; and
- 9 (iii) Total amount of organization employee benefit costs as a percent of cash compensation.
- 10 (D) System metrics:
- 11 (i) Comparisons of faculty salaries at each organization to market averages; and
- 12 (ii) Comparisons of classified and nonclassified employee salaries at each organization to
- 13 current market averages;
- 14 (E) An account of the total amount, type of training or professional development provided,
- 15 the number of employees who participated and the overall cost of the training and professional
- 16 development provided to employees pursuant to section six of this article; and
- 17 (F) Other measures the commission or council considers appropriate to assist policymakers
- 18 in evaluating the degree of success in implementing best human resources practices by higher
- 19 education organizations.
- 20 (b) *Job classification system report.* --
- 21 By July 1, 2016, and at least once within each five-year period thereafter, the commission
- 22 and council jointly shall review the effectiveness of the system for classifying jobs and submit an

1 in-depth report to the Legislative Oversight Commission on Education Accountability. The report
2 shall include, but is not limited to, findings, recommendations and supporting documentation
3 regarding the following job classification issues:

4 (1) The effectiveness of the point factor methodology and a determination of whether it
5 should be maintained; and

6 (2) The status of the job evaluation plan, including the factors used to classify jobs or their
7 relative values, and a determination of whether the plan should be adjusted.

8 (c) It is the responsibility of the head of human resources for each organization to prepare and
9 submit to the president or chief executive officer all human resources data requested by the
10 commission and council. The president or executive officer of each organization shall submit the
11 requested data at times established by the commission and council.

12 (d) In meeting reporting requirements established by this article and articles eight, nine and
13 nine-a of this chapter:

14 (1) The commission and council shall use the most recent data available and, as appropriate,
15 shall benchmark it against best practices and appropriate labor markets; and

16 (2) With the exception of the annual human resources report card and any other report
17 designated as due no later than a date certain, the commission and council may combine two or more
18 personnel reports if the dates on which they are due to the Legislature fall within a sixty-day period.

19 **§18B-7-9. Human resources reviews.**

20 (a) The commission and council jointly shall conduct an initial human resources review of
21 each organization to be carried out, subject to legislative appropriation, by an external vendor
22 possessing experience and expertise in conducting these reviews. The initial review shall be

1 completed by October 1, 2011, and shall be designed to compare current human resources practices
2 at each organization to best practices to identify areas of strength or deficiency, to identify functions
3 that should be the responsibility of the human resources department, but are incorrectly assigned or
4 carried out by other offices within each organization, to assist in targeting employee training and
5 development, to determine the degree to which organizations are adhering to state and federal laws
6 related to human resources administration and to provide data necessary to guide policymakers in
7 developing personnel rules and implementing the classification and compensation system.

8 (b) Following completion of the initial human resources review, the commission and council
9 jointly shall conduct a systematic human resources review of each organization at least once within
10 each five-year period.

11 (1) The review shall focus on compliance with statutory mandates contained in this article
12 and articles eight, nine and nine-a of this chapter and on adherence to personnel rules of the
13 commission and council.

14 (2) In the absence of special circumstances, the commission and council shall provide
15 organizations with reasonable notice prior to conducting a human resources review and shall identify
16 the subjects to be examined in the review.

17 **§18B-7-11. Employees designated as nonclassified; limits; reports required.**

18 (a) Notwithstanding any provision of this code to the contrary, by July 1, 2016, the
19 percentage of personnel placed in the category of nonclassified at a higher education organization
20 may not exceed twenty-five percent of the total number of classified and nonclassified employees
21 of that organization as those terms are defined in section two, article nine-a of this chapter and who
22 are eligible for membership in a state retirement system of the State of West Virginia or other

1 retirement plan authorized by the state. An institution may not have more than ten percent of its total
2 number of classified and nonclassified employees in positions considered by the president to be
3 critical to the institution pursuant to said section two, article nine-a of this chapter.

4 A higher education organization which has more than twenty-five percent of its employees
5 placed in the nonclassified category as defined by this subsection on July 1, 2015, shall reduce the
6 number of nonclassified employees to no more than twenty-five percent by July 1, 2016.

7 (b) For the purpose of determining the ratio of nonclassified employees pursuant to this
8 section, the following conditions apply:

9 (1) Organizations shall count faculty or classified employees, respectively, who retain the
10 right to return to faculty or classified employee positions, in the employee category they are serving
11 in at the time of reporting as required by subsections (a) and (b), section eight of this article. Such
12 employees will be counted in their original category at such time as they exercise their return rights.

13 (2) Athletic coaches are excluded from calculation of the ratio. The commission and the
14 council shall include consideration of this employee category in each review required by section nine
15 of this article and shall monitor organizations' use of this category and include this information in
16 the report required by (a), section eight of this article.

17 (c) *Powers and duties of commission and council regarding nonclassified staff ratios.* –

18 (1) The commission and council shall provide advice and technical assistance to
19 organizations under their respective jurisdictions in collecting and interpreting data to ensure that
20 they fulfill the requirements established by this section. Consideration of these issues shall be made
21 part of each review required by section nine of this article and information from the review included
22 in the report required by subsection (a), section eight of this article;

1 (2) The chancellors shall monitor the progress of the organizations in meeting the deadlines
2 established in this section and shall report such in the annual human resources report card.

3 (d) The current annual salary of a nonclassified employee may not be reduced if his or her
4 position is redefined as a classified position solely to meet the requirements of this section. If such
5 a nonclassified employee is reclassified, his or her salary does not constitute evidence of inequitable
6 compensation in comparison to other employees in the same pay grade.

7 (e) For the purposes of this section only the commission and council are not considered
8 higher education organizations.

9 **§18B-7-16. Study of employment practices.**

10 (a) The commission and council shall study the following issues relating to employment
11 practices:

12 (1) Developing a fair and rational policy based upon best human resources practices for
13 covering reductions in force, furloughs and other issues relating to seniority, including determining
14 how employees shall be treated whose salaries are derived from funds other than state
15 appropriations;

16 (2) Determining the advantages and disadvantages of maintaining the internal preferences
17 for hiring, promoting and transferring classified employees;

18 (3) Determining the appropriate definition of a “nonclassified” position, recommending a
19 best practice criteria for designating positions as nonclassified and recommending the appropriate
20 number or ratio of nonclassified positions for commission and council organizations.

21 (4) Recommending a rational, uniform policy to determine the status of employees whose
22 positions are funded, in whole or in part, by an external grant or contract from a federal, state or local

1 government or a private entity.

2 (b) The commission and council shall complete the work and report their findings,
3 conclusions and recommendations, together with drafts of any legislation necessary to effectuate the
4 recommendations, to the Legislative Oversight Commission on Education Accountability upon
5 completion, but no later than January 1, 2018.

6 **ARTICLE 9. TEMPORARY CLASSIFIED EMPLOYEE SALARY SCHEDULE;**
7 **CLASSIFICATION AND COMPENSATION SYSTEM.**

8 **§18B-9-1. Legislative purpose and intent.**

9 The purpose of the Legislature in enacting this article is to require the commission and
10 council jointly to implement, control, supervise and manage a complete, uniform system of personnel
11 classification and compensation in accordance with the provisions of this article for classified
12 employees at higher education organizations.

13 **§18B-9-2. Definitions.**

14 The following words have the meanings ascribed to them unless the context clearly indicates
15 a different meaning:

16 (1) "Classified employee" or "employee" means a regular full-time or regular part-time
17 employee of an organization who holds a position that is assigned a particular job title and pay grade
18 in accordance with the personnel classification and compensation system established by this article
19 or by the commission and council;

20 (2) "Salary" means the amount of compensation paid through the State Treasury per annum,
21 excluding those payments made pursuant to section two, article five, chapter five of this code, to an
22 organization employee;

1 (3) "Schedule" or "salary schedule" means the grid of annual salary figures established in
2 section three of this article; and

3 (4) "Years of experience" means the number of years a person has been an employee of the
4 State of West Virginia and refers to the horizontal column heading of the salary schedule established
5 in section three of this article. For the purpose of placement on the salary schedule, employment for
6 nine months or more equals one year of experience, but a classified employee may not accrue more
7 than one year of experience during any given fiscal year. Employment for less than full time or for
8 fewer than nine months during any fiscal year shall be prorated. In accordance with rules established
9 by the commission and council jointly, a classified employee may be granted additional years of
10 experience not to exceed the actual number of years of prior, relevant work or experience at
11 accredited institutions of higher education other than state institutions of higher education.

12 **ARTICLE 9A. CLASSIFICATION AND COMPENSATION SYSTEM.**

13 **§18B-9A-1. Legislative intent and purpose.**

14 (a) The intent of the Legislature in enacting this article is to establish the classification and
15 compensation system for certain employees of higher education organizations and apply recognized
16 best human resources practices in order to use available resources in the most effective and efficient
17 manner for the benefit of the citizens of West Virginia.

18 (b) In furtherance of the principles described in subsection (a) of this section, the chief
19 purposes of the classified classification and compensation system are to accomplish the following
20 objectives:

21 (1) Develop and implement a classification and compensation system that is fair, transparent,
22 understandable, simple to administer, self-regulating and adaptable to meet future goals and

1 priorities;

2 (2) Compensate employees within an organization fairly in relation to one another;

3 (3) Compensate employees across organizations who are performing similar work at similar
4 wage rates;

5 (4) Compensate employees at levels that are competitive with appropriate external markets
6 and are fiscally responsible; and

7 (5) Improve the process for evaluating jobs, including, but not limited to, mandating training
8 and development in best human resources practices and directing that key terms, job titles and
9 evaluation forms are consistent across organizations.

10 (c) It is further the intent of the Legislature to ensure that regular compensation analyses are
11 performed to determine how organization compensation for all classes of employees compares to
12 compensation in relevant external markets.

13 **§18B-9A-2. Definitions.**

14 As used in this article and articles seven, eight and nine of this chapter, the following words
15 have the meanings ascribed to them unless the context clearly indicates a different meaning:

16 (1) “Classification system” means the process by which jobs, job titles, career ladders and
17 assignment to pay grades are determined.

18 (2) “Classified employee” or “employee” means a regular full-time or regular part-time
19 employee of an organization who holds a position that is assigned a particular job title and pay grade
20 in accordance with the personnel classification and compensation system established by this article
21 or by the commission and council.

22 (3) “Job” means the total collection of tasks, duties and responsibilities assigned to one or

1 more individuals whose work is of the same nature and level.

2 (4) “Job description” or “position description” means a summary of the most important
3 features of a job, including the general nature and level of the work performed.

4 (5) “Job evaluation” means a systematic way of determining the value/worth of a job in
5 relation to other jobs in an organization by analyzing weighted compensable factors resulting in the
6 assignment of a job title and pay grade to a position described by a position information
7 questionnaire.

8 (6) “Job family” means a group of jobs having the same nature of work, but requiring
9 different levels of skill, effort, responsibility or working conditions.

10 (7) “Job specification” means the generic description of a group of jobs assigned a common
11 job title in the classification system. The job specification contains a brief summary of the purpose
12 of the job; the most common duties and responsibilities performed by positions holding the title;
13 knowledge, skills and abilities necessary to perform the work; and minimum qualifications required
14 for positions assigned the title.

15 (8) “Job title” means the descriptive name for the total collection of tasks, duties and
16 responsibilities assigned to one or more individuals whose positions have the same nature of work
17 performed at the same level.

18 (9) “Job worth hierarchy” means the perceived internal value of jobs in relation to each other
19 within an organization.

20 (10) “Midpoint differential” means the difference in wage rates paid in the midpoints of two
21 adjacent pay grades. A midpoint differential is calculated by taking the difference between the two
22 adjacent midpoints as a percentage of the lower of the midpoints.

1 (11) “Nonclassified employee” means an employee of an organization who holds a position
2 that is not assigned a particular job and job title within the classification system established by this
3 article and article nine of this chapter, and by duly promulgated and adopted rules of the commission
4 and council and who meets one or more of the following criteria:

5 (A) Holds a direct policy-making position at the department or organization level;

6 (B) Reports directly to the president or chief executive officer of the organization; or

7 (C) Is in a position considered by the president to be critical to the institution pursuant to
8 policies adopted by the governing board.

9 (12) “Organization” means the commission, the council, an agency or entity under the
10 respective jurisdiction of the commission or the council or a state institution of higher education as
11 defined in section two, article one of this chapter.

12 (13) “Pay grade” means the level to which a job is assigned within a job worth hierarchy as
13 a result of job evaluation.

14 (14) “Point factor methodology” means a quantitative job evaluation process in which
15 elements of a job are given a factor value and each factor is weighted according to its importance.

16 (15) “Position information questionnaire” or “PIQ” means a tool used to gather specific job
17 information for a specific position held by an individual, and used for the purposes of evaluating the
18 position for determination of job title and pay grade. The PIQ is used to gather information used to
19 assess the compensable factors of knowledge, experience, complexity and problem solving, freedom
20 of action, scope and effect, breadth of responsibility, intra-systems contacts, external contacts, direct
21 supervision of personnel, indirect supervision of personnel and health, safety and physical
22 considerations.

1 (16) “Pay range spread” means the difference in the minimum and maximum rate of pay for
2 a pay grade expressed as a percentage.

3 **§18B-9A-3. Applicability.**

4 Until the commission or council, as appropriate, has certified that an organization has
5 achieved full funding of the temporary classified employee annual salary schedule or is making
6 appropriate progress toward attaining full funding as defined by section three, article nine of this
7 chapter, the organization is subject to article nine of this chapter and may not exercise flexibility
8 provisions in any area of human resources identified in this chapter or in commission and council
9 rule. Flexibility provisions include paying classified employees in excess of the salary established
10 for their pay grade and years of experience indicated on the temporary classified employee annual
11 salary schedule established by section three, article nine of this chapter. Additional flexibility
12 provisions, such as the ability to modify the classified salary schedule at the organization level are
13 identified and governed in section four, article nine of this chapter.

14 **§18B-9A-4. Job classification system; job classification committee established; membership;
15 meetings; powers and duties.**

16 (a) The commission and council jointly shall maintain a uniform system for classifying jobs
17 and positions of organization classified employees.

18 (b) Pursuant to the rule authorized in section seven of this article, the commission and council
19 jointly shall establish and maintain a job classification committee.

20 The rule shall contain the following provisions related to the job classification committee:

21 (1) A systematic method for appointing committee members who are representative of all the
22 higher education organizations and affected constituent groups, including specifically providing for

1 membership selections to be made from nominations from these higher education organizations and
2 affected constituent groups;

3 (2) A requirement that an organization may have no more than two members serving on the
4 committee at any time and the combined membership representing various groups or divisions within
5 or affiliated with an organization in total may not constitute a majority of the membership; and

6 (3) A requirement that committee members serve staggered terms. One third of the initial
7 appointments shall be for two years, one third for three years and one third for four years.
8 Thereafter, the term is four years. A member may not serve more than four years consecutively.

9 (c) Powers and duties of the committee include, but are not limited to, the following:

10 (1) Modifying and deleting jobs and assigning job titles;

11 (2) Reviewing and revising job titles to make them consistent among organizations, including
12 adopting consistent title abbreviations;

13 (3) Establishing job worth hierarchies and data lines for each job title;

14 (4) Classifying jobs, establishing proper pay grades and placing jobs in pay grades consistent
15 with the job evaluation plan;

16 (5) Determining when new job titles are needed and creating new job titles within the system;

17 (6) Recommending base pay enhancements for jobs for which the application of point factor
18 methodology produces significantly lower salaries than external market pricing. The committee may
19 exercise this authority only if it reevaluates each job annually to make a determination whether the
20 enhancement should be continued;

21 (7) Recommending a procedure for performing job family reviews;

22 (8) Determining appropriate career ladders within the classification system and establishing

1 criteria for career progression; and

2 (9) Hearing job classification appeals prior to commencement of the formal grievance process
3 pursuant to commission and council rule.

4 (d) The committee shall meet monthly if there is business to conduct and also may meet more
5 frequently at the call of the chair. A majority of the voting members serving on the committee at a
6 given time constitutes a quorum for the purpose of conducting business.

7 (e) The commission and council shall use an appropriate methodology to classify jobs. The
8 commission and council jointly may adjust the job evaluation plan, including the factors used to
9 classify jobs and their relative values, at any time.

10 (f) No later than July 1, 2012, the commission and council shall have in place an up-to-date
11 job description for every classified job.

12 (g) The commission and council shall develop a position information questionnaire to be
13 used by all organizations to gather data necessary for classification of positions within the job worth
14 hierarchy.

15 **§18B-9A-5. Compensation planning and review committee established; membership;**
16 **meetings; powers and duties.**

17 (a) Pursuant to the rule authorized in section seven of this article, the commission and council
18 jointly shall establish and maintain a compensation planning and review committee.

19 (b) Within the guidelines established in this article and articles seven, eight and nine of this
20 chapter, the committee shall manage all aspects of compensation planning and review that the
21 commission and council jointly delegate to it.

22 The rule shall contain the following requirements related to the compensation planning and

1 review committee:

2 (1) A systematic method for appointing committee members who are representative of all the
3 higher education organizations and affected constituent groups, including specifically providing for
4 membership selections to be made from nominations from these higher education organizations and
5 affected constituent groups; and

6 (2) A requirement that an organization may have no more than two members serving on the
7 committee at any time and the combined membership representing various groups or divisions within
8 or affiliated with an organization in total may not constitute a majority of the membership; and

9 (3) A requirement that committee members serve staggered terms. One third of the initial
10 appointments shall be for two years, one third for three years and one third for four years.
11 Thereafter, the term is four years. A member may not serve more than four years consecutively.

12 (c) The committee shall meet at least quarterly and at other times at the call of the chair. A
13 majority of the voting members serving on the committee at a given time constitutes a quorum for
14 the purpose of conducting business.

15 (d) An institution may not have a majority of the committee members, and the combined
16 membership representing various groups or divisions within or affiliated with an organization in total
17 may not constitute a majority of the membership.

18 (e) The Compensation Planning and Review Committee has powers and duties related to
19 classified employee compensation programs which include, but are not limited to, the following:

20 (1) Making annual recommendations for revisions in the system classified compensation
21 plan, based on existing economic, budgetary and fiscal conditions or on market study data.

22 (2) Overseeing the five-year market salary study conducted by an external vendor pursuant

1 to section six of this article;

2 (3) Overseeing the annual internal market review;

3 (4) Meeting at least annually with the Job Classification Committee to discuss benchmark
4 jobs to be included in salary surveys, market “hot jobs” that may require a temporary salary
5 adjustment, results of job family reviews and assessment of current job titles within the classification
6 system for market matches and other issues as the Vice Chancellor for Human Resources, in
7 consultation with the chancellors, determines to be appropriate; and

8 (5) Performing other duties as assigned by the commission and council or as necessary or
9 expedient to maintain an effective classification and compensation system.

10 (f) The commission and council may allow the committee to collapse the three lowest pay
11 grades into a single pay grade and provide for employees to be paid at rates appropriate to the highest
12 of the three lowest pay grades.

13 **§18B-9A-5a. Restriction on duties of job classification committee and compensation planning
14 and review committee.**

15 The commission and council may not delegate any of the following duties to the
16 Compensation Planning and Review Committee or the Job Classification Committee:

17 (1) Approval of a classification and compensation rule;

18 (2) Approval of the job evaluation plan; and

19 (3) Approval of the annual classified salary schedule.

20 **§18B-9A-6. Salary structure and salary schedules.**

21 (a) The commission and council shall develop and maintain a classified salary schedule and
22 ensure that all organizations under their respective jurisdictions adhere to state and federal laws and

1 duly promulgated and adopted organization rules.

2 (b) The classified salary schedule serves as the basis for the following activities:

3 (1) Evaluating compensation of classified employees in relation to appropriate external
4 markets; and

5 (2) Developing the minimum salary per pay grade to be adopted by the commission and
6 council.

7 (c) The classified salary schedule shall meet the following criteria:

8 (1) Sets forth the number of pay grades to be included in the structure;

9 (2) Includes a midpoint value for each pay grade which represents the average market rate
10 of pay for jobs in that pay grade. The commission and council may choose a midpoint value that is
11 not based exclusively on market salary data; and

12 (3) Includes minimum and maximum pay range values based on an established range spread.

13 (d) The commission and council jointly shall contract with an external vendor to conduct a
14 classified employee market salary study. The study shall be completed by January 31, 2016, and on
15 January 31 every fifth year thereafter. At the conclusion of each study, or for good cause, the
16 commission and council, in consultation with the Compensation Planning and Review Committee,
17 may take any combination of the following actions:

18 (1) Adjust the number of pay grades and the point values necessary to validate the result of
19 the classification system and the job worth hierarchy with the market;

20 (2) Adjust the midpoint differentials between pay grades better to reflect market conditions;

21 or

22 (3) Adjust the range spread for any pay grade.

1 (e) The commission and council jointly may perform an annual review of market salary data
2 to determine how salaries have changed in the external market. Based on data collected, the
3 commission and council jointly, in consultation with the Compensation Planning and Review
4 Committee, shall adjust the classified salary schedule if changes are supported by the data.

5 (f) Annually, the commission and council may approve a minimum salary amount that sets
6 forth a compensation level for each pay grade below which no organization employee may be paid.

7 (1) The minimum salary amount for each pay grade on the classified salary schedule is
8 determined by applying a percentage determined after analysis of the market and existing
9 compensation levels to the annual market salary data. The commission and council may take into
10 consideration other factors they consider appropriate.

11 (2) The salary of an employee working fewer than thirty-seven and one-half hours per week
12 shall be prorated.

13 (g) The organization rule promulgated pursuant to subsection (c), section seven of this article
14 may provide for differential pay for certain employees who work different shifts, weekends or
15 holidays.

16 **§18B-9A-7. Classification and compensation rules required.**

17 (a) Notwithstanding any provision of law or rule to the contrary, the commission and council
18 jointly shall design, develop, implement and administer the classified personnel system of
19 classification and compensation pursuant to this article and articles seven, eight and nine of this
20 chapter.

21 (b) *System rule.* --

22 The commission and council shall propose a joint rule or rules for legislative approval in

1 accordance with article three-a, chapter twenty-nine-a of this code to implement the provisions of
2 this article and articles seven, eight and nine of this chapter. The rule shall establish a classified
3 employee classification and compensation system that incorporates best human resources practices.

4 (1) *Organization accountability.* --

5 The commission and council shall propose a joint system rule that provides a procedure for
6 correcting deficiencies identified in the human resources reviews conducted pursuant to section nine,
7 article seven of this chapter. The procedure shall include, but is not limited to, the following
8 components:

9 (A) Specifying a reasonable time for organizations to correct deficiencies uncovered by a
10 review;

11 (B) Applying sanctions when major deficiencies are not corrected within the allotted time:

12 (i) For purposes of this subsection, a major deficiency means an organization has failed to
13 comply with federal or state law or with personnel rules of the commission and council.

14 (ii) When a major deficiency is identified, the commission or council, as appropriate, shall
15 notify the governing board of the institution in writing, giving particulars of the deficiency and
16 outlining steps the governing board is required to take to correct the deficiency.

17 (iii) The governing board shall correct the major deficiency within four months or longer
18 provided the length of time is agreed upon by the governing board and the commission or council
19 as applicable, and shall notify the commission or council, as appropriate, when the deficiency has
20 been corrected.

21 (iv) If the governing boards fail to correct the major deficiency or fail to notify the
22 commission or council, as appropriate, that the deficiency has been corrected within the agreed upon

1 period, the commission or council shall apply sanctions.

2 Sanctions may include, but are not limited to, suspending new hiring by the organization and
3 prohibiting compensation increases for key administrators who have authority over the areas of
4 major deficiency until the identified deficiencies are corrected.

5 (2) *Classified employee classification and compensation.* -- The classified employee
6 classification and compensation system rule shall establish a classification and compensation system
7 to accomplish the following objectives:

8 (A) Allowing for performance and other objective, measurable factors such as technical
9 expertise, education, years of experience in higher education and experience above position
10 requirements to be considered in compensation decisions;

11 (B) Achieving and maintaining appropriate levels of employee dispersion through a pay
12 range;

13 (C) The rule shall provide that the salary of a current employee may not be reduced by a job
14 reclassification, a modification of the market salary schedule or other conditions that the commission
15 and the council consider appropriate and reasonable;

16 (D) Establishing a job worth hierarchy and identifying the factors to be used to classify jobs
17 and their relative values and determining the number of points that are necessary to assign a job to
18 a particular pay grade;

19 (E) Establishing an objective standard to be used in determining when a job description or
20 a position description is up-to-date;

21 (F) Providing a procedure whereby a classified employee or a supervisor who believes that
22 changes in the job duties and responsibilities of the employee justify a position review may request

1 that a review be done at any time;

2 (G) Specifying that the acceptable period that may elapse between the time when an
3 employee files a formal request for a position review and the time when the review is completed may
4 not exceed forty-five days. An organization that fails to complete a review within the specified time
5 shall provide the employee back pay from the date the request for review was received if the review,
6 when completed, produces a reclassification of the position into a job in a higher pay grade;

7 (H) Providing a procedure by which employees may file appeals of job classification
8 decisions for review by the Job Classification Committee prior to filing a formal grievance. The
9 committee shall render a decision within sixty days of the date the appeal is filed with the
10 commission or the council;

11 (I) Providing for recommendations from the Compensation Planning and Review Committee
12 and the Job Classification Committee to be considered by the commission and the council and to be
13 included in the legislative reporting process pursuant to section eight, article seven of this chapter;
14 and

15 (J) Establishing and maintaining the job classification committee mandated in section four
16 of this article.

17 (3) *Performance evaluations.* -- The system rule shall provide for developing and
18 implementing a consistent, objective performance evaluation model and shall mandate that training
19 in conducting performance evaluations be provided for all organization personnel who hold
20 supervisory positions.

21 (c) *Organization rules.* --

22 (1) Each organization shall promulgate and adopt a rule or rules in accordance with the

1 provisions of section six, article one of this chapter to implement requirements contained in the
2 classification and compensation system rule or rules of the commission and council. The
3 commission and council shall provide a model personnel rule for the organizations under their
4 jurisdiction and shall provide technical assistance in rulemaking as requested.

5 (2) The initial organization rule shall be adopted not later than six months following the date
6 on which the commission and council receive approval to implement the emergency rule
7 promulgated pursuant to this section. Additionally, each organization shall amend its rule to comply
8 with mandated changes not later than six months after the effective date of any change in statute or
9 rules, unless a different compliance date is specified within the statute or rule containing the
10 requirements or mandate.

11 (3) An organization may not adopt a rule under this section until it has consulted with the
12 appropriate employee class affected by the rule's provisions.

13 (4) If an organization fails to adopt a rule or rules as mandated by this subsection, the
14 commission and council may prohibit it from exercising any flexibility or implementing any
15 discretionary provision relating to human resources contained in statute or in a commission or
16 council rule until the organization's rule requirements have been met.

17 (5) Additional flexibility or areas of operational discretion identified in the system rule or
18 rules may be exercised only by an organization which meets the following requirements:

19 (A) Receives certification from the commission or council, as appropriate, that the
20 organization has achieved full funding of the temporary salary schedule or is making appropriate
21 progress toward achieving full funding pursuant to section three, article nine of this chapter;

22 (B) Promulgates a comprehensive classification and compensation rule as required by this

1 section;

2 (C) Receives approval for the classification and compensation rule from the appropriate
3 chancellor in accordance with this section; and

4 (D) Adopts the rule by vote of the organization's governing board.

5 (6) Notwithstanding any provision of this code to the contrary, each chancellor, or his or her
6 designee, has the authority and the duty to review each classification and compensation rule
7 promulgated by an organization under his or her jurisdiction and to recommend changes to the rule
8 to bring it into compliance with state and federal law, commission and council rules or legislative,
9 commission and council intent. Each chancellor may reject or disapprove any rule, in whole or in
10 part, if he or she determines that it is not in compliance with law or rule or if it is inconsistent with
11 legislative, commission and council intent.